

Report to the Board of Adjustment

Prepared by the Maricopa County Planning and Development Department

Case: BA2006019

Variance

Hearing Date:

May 10, 2006 (Continued from April 12, 2006)

Agenda Item:

xx

Supervisory District:

1

Applicant/Owner:

Marion Memmott

Request:

Variances to permit:

- 1) An existing accessory structure (horse shade) to setback 11-feet from the side (east) property line where 30-feet is the minimum required; and,
- 2) An existing accessory structure (awning) to setback 6-feet from the side (east) property line where 30-feet is the minimum required; and,
- 3) An existing accessory structure (storage shed) to setback 10-feet from the side (east) property line where 30-feet is the minimum required; and,
- 4) An existing building separation distance (shed/awning) of 0 feet where 15 feet is the minimum required in the Rural-43 zoning district.

These variances are requested from the following Zoning Ordinance Section(s):

- 1, 2, & 3) Section 503, Article 503.4.2
4) Section 503, Article 503.5.5

Site Location:

19208 East Appleby Road – Sossaman Road and Queen Creek Road (Queen Creek area)

Site Size:

52,470 square feet (1.2 acres)

Existing Zoning:

Rural-43

Current Use: Residential
Citizen Support/Opposition: None known

Staff Recommendation: Deny

Existing On-Site and Surrounding Zoning:

1. On-site: Rural-43
North: Rural-43
South: R1-18
East: Rural-43
West: PAD - Town of Gilbert

Existing On-Site and Surrounding Land Use:

2. On-site: Single-family residence
North: Single-family residence
South: Finisterra Subdivision, a proposed 52-lot, 13-tract development in preliminary plat stage
East: Single-family residence
West: Sossaman Road then vacant

Background:

3. **c. 1996:** A single-family residence was constructed on the subject site.
4. **April 8, 1997:** A lot split was recorded creating five separate parcels 304-68-003G (the subject site), -003F, 003H, 003J and -003K from the parent parcel (304-68-003D).
5. **May 27, 2003:** The property owner obtained the subject site via a Warranty Deed recorded under docket number **20030666263**.
6. **February 16, 2006:** The applicant applied for this variance.

Findings:

7. **Maricopa County Department of Transportation:** No response at the time this report was written.
8. **Flood Control District:** No response at the time this report was written.

9. **Environmental Services Department:** No response at the time this report was written.
10. **Drainage Administration:** No response at the time this report was written.

Site Analysis:

11. The subject site is located on Appleby Road, approximately ½-mile southeast of the intersection of Sossaman Road and Queen Creek Road in the Queen Creek area. The lot is typically rectangular, measuring approximately 172-feet in width, and 304-feet in depth. The total area of the subject site is 52,470 square feet. Access is taken from the front (south) property line along Appleby Road via a circular drive. The driveway provides access to the west side of the residence. The subject site is relatively flat, and is free of any topographical hardships. The subject site is currently developed with a 4,037-square foot single-family residence that includes an attached covered patio and garage. There are also awnings and storage structures as well as a dog run in the side and rear yards, the subjects of these variance requests. Staff was unable to find evidence that these structures were permitted. Landscaping consist of a few trees in the front, rear and along the east side with lawn and pasture areas in both the front and rear yards. Galvanized pole fencing surrounds the subject site. The applicant is proposing to construct a 980-square foot addition to the residence. Staff notes that the proposed addition to the residence would meet side yard setback requirements.



12. The following table is included to illustrate and contrast the standards for the underlying zoning district with those proposed by the applicant.

Standard	Rural-43 Zoning District	Proposed Standard
Front Yard Setback	40-feet	70-feet
Rear Yard Setback	40-feet	190-feet
Side Yard Setback	30-feet	11-feet
Side Yard Setback	30-feet	6-feet
Side Yard Setback	30-feet	10-feet
Building Separation	15-feet	0-feet
Side Yard Setback	20-feet	n/a
Maximum Height	30-feet/2 stories	13-feet/1 story
Minimum Lot Area	43,560 square feet	54,470 square feet
Minimum Lot Width	145-feet	172-feet
Lot Coverage	15%	9.5%

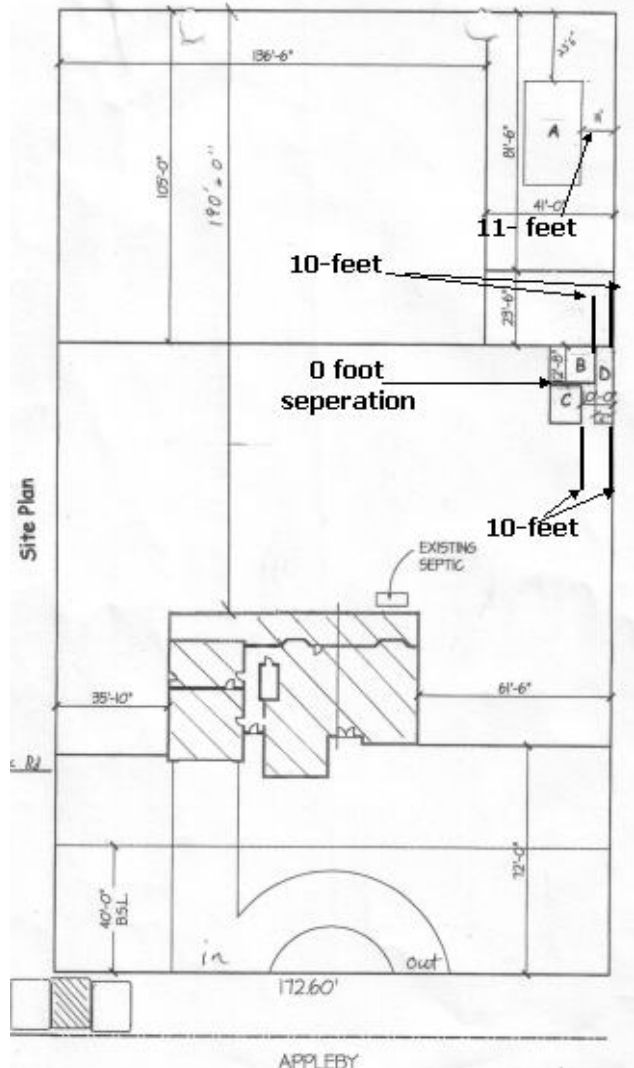
*Standards indicated in **bold** do not meet minimum base zoning standards.

Land Use Analysis:

13. The subject site is located in a Class 1 County Island, completely surrounded by the Town of Queen Creek, an area that is undergoing increasing development and is in transition from rural/agrarian to large lot residential. The surrounding properties are zoned Rural-43 and are being utilized as rural/residential land uses. The majority of the properties in the immediate area are ranchette type developments with single story residences. Other uses in the larger surrounding area are agricultural, primarily row crops. These agricultural uses are declining as the Queen Creek area is experiencing significant development pressure.
14. A number of one to two-acre parcels are present in the area, all of which are the result of lot splits. Many of these parcels are developed with single-family residences and maintain a rural character. Properties in the immediate area have accessory structures that appear to be used for storage though there is evidence of some agricultural uses. There are no commercial properties in the area. The Town of Queen Creek corporate limits are located approximately ¼-mile from the subject site.

Plan Analysis:

15. In this case the applicant is requesting four variances to permit: 1) an existing accessory structure (horse shade) to setback 11-feet from the side (east) property line where 30-feet is the minimum required; 2) an existing accessory structure (awning) to setback 6-feet from the side (east) property line where 30-feet is the minimum required; 3) an existing accessory structure (storage shed) to setback 10-feet from the side (east) property line where 30-feet is the minimum required; and, 4) an existing building separation distance (shed/awning) of 0 feet where 15 feet is the minimum required in the Rural-43 zoning district.
16. The first request regards the horse shade and is designated 'A' on the site plan. The structure is 11-feet from the side yard with its rear side 23-feet, 6-inches from the rear property line. It is a 4-poled support with roof. The applicant has stated the concern for preserving the grazing area in the rear area of the property. Staff understands the concern. There are alternatives that will alleviate the need for this variance request. The first is to remove the structure from the property. The second is to remove the roof from the structure. A third alternative is moving the structure behind the 40 foot setback line, where it may be placed as close as 3-feet to the rear and side yard property lines. A fourth alternative is moving the structure to the west 19-feet. The last alternative is removing 14-feet of the southern portion of the structure to bring it into compliance with the rear yard setback of the Zoning Ordinance.
17. The second request is for the existing accessory feed awning and is designated 'B' on the site plan. This structure is also a four pole support with a roof. This structure is 6-feet from the side property line where 30-feet is required. There are alternatives for this request that would make the request unnecessary if they were complied with. Removing the structure is first alternative. The second is to remove the roof from the poles. A third alternative is to move the structure 24-feet westward where it will be in



compliance with the side yard setback. The fourth would be to move the structure into the rear yard where it may be as close as 3-feet from the side and rear property lines.

18. The third request is for the storage shed which is not in compliance with the side yard requirement of 30-feet is designated 'C' on the site plan. The shed is 10-feet from the side boundary line. As previously stated the applicant has alternatives to rectify this non-compliant issue. The applicant has stated in item 4 of the Supplemental Questionnaire that this structure is not a permanent structure and is used to store animal feed and for tool storage. The first alternative is removing the structure from the property. Another is removing the roof of the structure. A third is moving the structure 20-feet, the required distance to the west. The last would be to move the shed into the rear yard where it may be as close as 3-feet from the rear and side property boundaries.
19. The fourth variance request is for an existing building separation distance between the shed and awning, designated 'B and C' on the site plan, of 0 feet where 15 feet is the minimum required. The alternative to correct this would be to move both structures where they would be in the rear yard and to ensure that if the structures were within proximity of one another that they would be positioned at least 15 feet apart.
20. This area is zoned Rural-43 and is intended for rural residential uses with greater setbacks and lower lot coverage. The requests themselves are self created hardships, because there are no topographic features that would interfere with placing the existing structure elsewhere on the property where it will comply with Zoning Ordinance requirements. The requested relief is unnoticeable on a property of this size. Granting these variance requests would not be detrimental to the adjacent properties or negatively affect the public welfare. However, approval of the request would grant a special privilege to the applicant not enjoyed by the surrounding property owners as the requests themselves are in conflict with the intent of the Ordinance. Staff is sympathetic to the owner's request since the claim that the property was purchased as is, but is unable to find a specific hardship, an extenuating or unusual circumstance. The property is larger than one acre and alternatives exist that could alleviate the need for these variance requests. Therefore, staff recommends denial of these variance requests.

Recommendation: (BA2006019)

21. Staff recommends **denial** of these variance requests based on the following:
 - Granting this request would confer a special privilege to the applicant.
 - There is reasonable use of the property without this variance request.
 - There are no physical or topographical hardships associated with this site and any hardship is self-created due to the desired location of the proposed structures.
 - There are reasonable alternatives available to the applicant that would eliminate the need for this variance.
 - The request conflicts with the intent of the Zoning Ordinance.

22. If the Board finds that a reasonable use of the property cannot be made without these variances, then these requests may be approved, subject to the following stipulations:
- a) General compliance with the site plan dated February 16, 2006.
 - b) The applicant shall obtain all necessary permits within 120 days of Board approval.

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Attachments: Case Map BA2006019
Zoning Map
Assessor Map
Site Plan
Application
Supplemental Questionnaire (2 pages)